



# PUBLIC NOTICE

Federal Communications Commission  
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Washington, DC 20554

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DA 21-1582

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## RURAL DIGITAL OPPORTUNITY FUND SUPPORT FOR 7,608 WINNING BIDS READY TO BE AUTHORIZED; BID DEFAULTS ANNOUNCED

### Listed Auction 904 Long-Form Applicants Must Submit Letters of Credit and Bankruptcy Code Opinion Letters by Friday, January 7, 2022

**AU Docket No. 20-34**  
**WC Docket No. 19-126**  
**WC Docket No. 10-90**

By this Public Notice, the Rural Broadband Auctions Task Force (RBATF), Wireline Competition Bureau (WCB or Bureau), and the Office of Economics and Analytics (OEA) announce they are ready to authorize Rural Digital Opportunity Fund (Auction 904) support for the Auction 904 winning bids identified in Attachment A of this Public Notice.

Due to the upcoming federal observance of Christmas Day and New Year's Day, on our own motion we grant a limited waiver of the Commission's rules requiring the listed applicants to obtain and submit irrevocable standby letters of credit and Bankruptcy Code opinion letters within 10 business days.<sup>1</sup> We find good cause to waive section 54.804(b)(6)(v) due to the special circumstance of likely and potential bank and business closures during these and adjacent days.<sup>2</sup> A limited waiver will serve the public interest by allowing the ready to authorize applicants in this Public Notice sufficient time to obtain and submit the required documents. To be authorized to receive the total 10-year support amounts listed in Attachment A, the long-form applicants identified in that attachment are required to submit acceptable irrevocable stand-by letter(s) of credit and Bankruptcy Code opinion letter(s) from their legal counsel for each state where they have winning bids that are ready to be authorized in accordance with the instructions provided below by the applicable deadline – **prior to 6:00 p.m. ET on Friday, January 7, 2022.**

On December 7, 2020, we announced that there were 180 winning bidders in the auction and established the deadlines for winning bidders to submit their long-form applications for Rural Digital Opportunity Fund support.<sup>3</sup> Winning bidders had the opportunity to assign some or all of their winning

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<sup>1</sup> See Office of Personal Management, 2021 Holiday Schedule, <https://www.opm.gov/policy-data-oversight/pay-leave/federal-holidays/#url=2021>.

<sup>2</sup> See 47 CFR § 54.804(b)(6)(v); *Rural Digital Opportunity Fund Phase I Auction Scheduled for October 29, 2020; Notice and Filing Requirements and Other Procedures for Auction 904*, AU Docket No. 20-34 et al., Public Notice, 35 FCC Rcd 6077, 6177, para. 319 (2020) (*Auction 904 Procedures Public Notice*) (“No later than 10 business days after the release of the public notice, a long-form applicant must obtain one irrevocable standby letter of credit at the value specified in section 54.804(c)(1) from a bank acceptable to the Commission as set forth in section 54.804(c)(2) for each state where the long-form applicant is seeking to be authorized.”).

<sup>3</sup> *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced; FCC Form 683 Due January 29, 2021*, AU Docket No. 20-34 et al., Public Notice, 35 FCC Rcd 13888 (WCB and OEA 2020) (*Auction 904 Closing Public Notice*).

bids to related entities by December 22, 2020.<sup>4</sup> All winning bidders that retained their winning bids and all related entities that were assigned winning bids were required to submit long-form applications by January 29, 2021.<sup>5</sup> On February 18, 2021, we announced that there were 417 long-form applicants.<sup>6</sup>

We have reviewed the long-form applications associated with each of the winning bids identified in Attachment A. These applications were reviewed to determine whether they met all legal, financial, and technical requirements.<sup>7</sup> Based on the representations and certifications in each relevant long-form application, we are prepared to authorize support, subject to submission of the required letter(s) of credit and Bankruptcy Code opinion letter(s), for each of the winning bids identified in Attachment A.<sup>8</sup>

The support amounts listed in Attachment A are subject to change. On July 26, 2021, the RBATF, WCB, and OEA sent a letter to certain long-form applicants that identified census blocks where concerns of existing service or questions of potential waste had been raised, and informed applicants that if they no longer wished to pursue support for a winning bid they should identify those census block groups with a brief explanation of their decision to default on their bid(s).<sup>9</sup> Support amounts will be adjusted for applicants that defaulted on the identified census blocks. Until these adjusted support amounts are provided, we encourage long-form applicants to obtain letters of credit that cover the full amount of support indicated in Attachment A.

*ETC Deadline Waivers.* Auction 904 long-form applicants were required to certify that they are eligible telecommunications carriers (ETCs) in all bid areas and to submit appropriate documentation supporting such certification on or before June 7, 2021.<sup>10</sup> On our own motion, we find good cause to waive this deadline for the applicants that were designated as ETCs by the Commission on June 8, 2021 for the reasons described in the first Auction 904 Ready to Authorize Public Notice.<sup>11</sup>

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<sup>4</sup> *Id.* at 13890-91, paras. 9-14.

<sup>5</sup> *Id.* at 13892-93, para. 16.

<sup>6</sup> *417 Long-Form Applicants in the Rural Digital Opportunity Fund Phase I Auction (Auction 904)*, Public Notice, DA 21-170 (WCB and OEA Feb. 18, 2021) (*Auction 904 Long-Form Applicants Public Notice*).

<sup>7</sup> The Bureau designated Joe Wheeler Electric Membership Corporation as an Eligible Telecommunications Carrier under the name “Joe Wheeler Electric Company.” Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund, WC Docket 09-197, et al., DA 21-663, Order, Attachment A (WCB June 8, 2021). This company had petitioned for ETC designation under the name Joe Wheeler Electric Membership Corporation. A future Order will revise the ETC designation to reflect the company’s legal name as Joe Wheeler Electric Membership Corporation.

<sup>8</sup> See 47 CFR § 54.804(b)(6)(v). We remind all applicants that an eligible telecommunications carrier (ETC) satisfies its obligation to “offer” qualifying services by being legally responsible for dealing with customer problems, providing quality of service guarantees, and meeting universal service fund-related requirements. Accordingly, a broadband provider may satisfy its voice obligations by offering voice service through an affiliate or by offering a managed voice solution (including VoIP) through a third-party vendor, but a provider cannot simply rely on the availability of over-the-top voice options to satisfy this obligation. *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6129, para. 139.

<sup>9</sup> See “Letters to Long-Form Applicants about Identified Census Blocks,” <https://www.fcc.gov/auction/904/releases>.

<sup>10</sup> 47 CFR § 54.804(b)(5) (requiring winning bidders to submit within 180 days of the announcement of winning bids, a certification of ETC designation in all relevant areas and supporting documentation for that certification); *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6176, para. 316; see also *Rural Digital Opportunity Fund et al.*, WC Docket No. 19-126 et al., Report and Order, 35 FCC Rcd 686, 727-28, para. 92 (2020) (*Rural Digital Opportunity Fund Order*).

<sup>11</sup> *Rural Digital Opportunity Fund Auction Support for 1,460 Winning Bids Ready to Be Authorized*, AU Docket No. 20-34 et al., DA 21-909, at 2 & n.9 (WCB/OEA July 26, 2021). See also *Telecommunications Carriers Eligible for Universal Service Support; Connect America Fund*, WC Docket Nos. 09-197, 10-90, Order, DA 21-663 (WCB June 8, 2021).

We also find good cause to waive this deadline for certain applicants that obtained state ETC designations.<sup>12</sup> Generally, the Commission's rules may be waived for good cause shown.<sup>13</sup> Waiver of the Commission's rules is appropriate only if both: (1) special circumstances warrant a deviation from the general rule, and (2) such deviation will serve the public interest.<sup>14</sup> The Commission has found that waiver of this deadline is appropriate when an ETC designation proceeding is not yet complete by the deadline despite the good faith efforts of the long-form applicant.<sup>15</sup> The Commission has explained that it would presume such good faith efforts when the petitioner submitted its petition to the relevant authority within 30 days of the release of the *Auction 904 Closing Public Notice*, i.e., by January 6, 2021.<sup>16</sup> In the Connect America Fund Phase II auction, we granted petitions for waiver submitted by applicants that filed outside the 30-day window after finding that the applicant "acted diligently in attempting to obtain its ETC designation prior to the deadline," that a delay did not "rise to the level of lack of good faith that should result in [the applicant's] default," and that "late-filing of [the] ETC application did not delay the Commission's long-form application review process or the provision of voice and broadband services to consumers."<sup>17</sup> In contrast, we have found a lack of good-faith pursuit of ETC designation where (1) an applicant had provided no explanation or defense of its failure to timely submit its ETC application to its respective state commission, (2) an applicant relied on a specific corporate strategy or business consideration to delay its submission, or (3) an applicant filed its ETC designation petition a few days before the ETC deadline and "failed to provide a compelling rationale" for the delay.<sup>18</sup>

Armstrong Telecommunications, Inc. (Armstrong), Centre WISP Venture Company, LLC (Centre), and Zito Mifflin County, LLC (Zito), each sought waiver of the June 7 ETC documentation deadline for their respective long-form applications in Pennsylvania.<sup>19</sup> We find good cause to grant each of their petitions for waiver regarding the ETC documentation deadline for this state. Because each of these applicants filed petitions with the Pennsylvania Public Utilities Commission (PUC) within 30 days of the public notice announcing that they were winning bidders,<sup>20</sup> we presume that they acted in good

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<sup>12</sup> Requests from other long-form applicants seeking waiver of the ETC deadline remain pending and will be addressed in future releases.

<sup>13</sup> 47 CFR § 1.3.

<sup>14</sup> See *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1157-59 (D.C. Cir. 1969), cert. denied, 93 S.Ct. 461 (1972)).

<sup>15</sup> *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, 6002, para. 152 (2016); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 723, para. 81.

<sup>16</sup> *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 723, para. 81; *Auction 904 Closing Public Notice*, 36 FCC Rcd 13888.

<sup>17</sup> See, e.g., *Connect America Fund Phase II Auction Support for 2,121 Winning Bids Ready to Be Authorized*, AU Docket No. 17-182 et al., Public Notice, 34 FCC Rcd 12384, 12385-86 (WCB/OEA 2019); *Connect America Fund Phase II Auction Support for 611 Winning Bids Ready to be Authorized*, AU Docket No. 17-182 et al., Public Notice, 34 FCC Rcd 4648, 4649 (WCB/OEA 2019).

<sup>18</sup> See *Rural Digital Opportunity Fund Auction (Auction 904)*, *Rural Digital Opportunity Fund*, AU Docket No. 20-34, WC Docket No. 19-126, Order, DA 21-908, at 3-4, paras. 8-16 (WCB/OEA July 26, 2021) (*RDOF ETC Deadline Waiver Order*).

<sup>19</sup> Petition of Armstrong Telecommunications, Inc. for Waiver of the ETC Designation Deadline, AU Docket No 20-34 at 3 (filed June 1, 2021) (Armstrong Petition); Petition of Centre WISP Venture Company, LLC, for Waiver of the ETC Designation Deadline, AU Docket No 20-34 at 1 (filed June 1, 2021) (Centre Petition); Petition of Zito Mifflin County, LLC for Waiver of the ETC Designation Deadline, AU Docket No 20-34 at 1 (filed June 2, 2021) (Zito Petition).

<sup>20</sup> Armstrong began discussions with the Pennsylvania PUC in December of 2020 concerning expanding its current ETC designation. Armstrong Petition at 3; Centre filed its ETC applications with the Pennsylvania PUC on January (continued....)

faith in pursuing their ETC designations.<sup>21</sup> That presumption has not been overcome, and thus we find good cause to waive the deadline.

Furthermore, Tri-Co Connections, LLC (Tri-Co) and Windstream Services, LLC and Windstream Communications, LLC (collectively, Windstream) separately sought waiver of the June 7 ETC documentation deadline for their respective long-form applications in Pennsylvania.<sup>22</sup> Though Tri-Co and Windstream did not file their ETC petitions in Pennsylvania within the 30-day time frame for the presumption of good faith to apply, we nonetheless find good cause to grant their petitions for waiver regarding the ETC documentation deadline for this state.

We conclude that Tri-Co and Windstream both demonstrated special circumstances that warrant deviation from the Commission's June 7, 2021 deadline. In both cases, the Pennsylvania PUC found that the companies had engaged in good faith efforts to become ETCs by the applicable deadline.<sup>23</sup> Tri-Co explains that it filed its application on February 5, 2021 and the Pennsylvania PUC staff issued several data requests relating to the application on April 13, 2021 and May 11, 2021.<sup>24</sup> Tri-Co diligently worked to respond to those data requests as soon as possible.<sup>25</sup> On July 15, 2021, the Pennsylvania PUC designated Tri-Co as an ETC.<sup>26</sup> Windstream explains that, following release of the *Auction 904 Closing Public Notice*, it conducted a "data-intensive task of analyzing which specific Census blocks are served by the ILEC entities in the Windstream corporate family—which already had ETC designations—and which are served by Windstream Communications or which were hybrid blocks requiring service from multiple entities" in order to determine where it needed to file ETC designation applications.<sup>27</sup> After it completed this process in late February, Windstream began filing the necessary applications.<sup>28</sup> Windstream filed its application on April 22, 2021, and the Pennsylvania PUC staff followed up with 51 data requests for the applicant on May 21, 2021.<sup>29</sup> Windstream diligently worked to respond to those data requests as soon as possible.<sup>30</sup> On November 18, 2021, the Pennsylvania PUC designated Windstream as

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6, 2021. Centre Petition at 2; Zito filed its ETC application with the Pennsylvania PUC on January 6, 2021. Zito Petition at 2.

<sup>21</sup> *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, 6002, para. 152 (2016); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 723, para. 81.

<sup>22</sup> Petition of Tri-Co Connections, LLC for Waiver of the ETC Designation Deadline, AU Docket No 20-34 (filed June 7, 2021) (Tri-Co Petition); Windstream Communications, LLC for Waiver of ETC Designation Deadline, AU Docket No. 20-34 (filed June 1, 2021) (Windstream Petition).

<sup>23</sup> On May 24, 2021, the Pennsylvania PUC issued "good faith" letters to Tri-Co and Windstream stating that its review of each applicant's Petition would not be completed prior to deadline despite the good faith efforts of each long-form applicant. Letter from the Pennsylvania PUC, Tiffany L. Tran, Assistant Counsel, to Kenneth R. Stark, Counsel to Tri-Connections, LLC, at 1 (May 24, 2021) (Tri-Co Pennsylvania PUC Letter); Letter from Pennsylvania PUC, Melanie J. El Atieh, Assistant Counsel, Law Bureau, to Thomas Neisen, Counsel for Windstream Communications, Inc., at 1 (May 24, 2021) (Windstream Pennsylvania PUC Letter). Subsequently, Pennsylvania PUC staff confirmed that Windstream acted in good faith, diligently pursuing its ETC designation Petition.

<sup>24</sup> Tri-Co Petition at 2-3.

<sup>25</sup> *Id.* at 3.

<sup>26</sup> See Pennsylvania Public Utility Commission, Order, Docket No. P-2018-3005127 (rel. July 15, 2021).

<sup>27</sup> Windstream Petition at 2.

<sup>28</sup> *Id.*

<sup>29</sup> Windstream Petition at 6.

<sup>30</sup> *Id.* at 6.

an ETC.<sup>31</sup> In both cases, Tri-Co and Windstream filed their ETC applications well before the ETC designation deadline, engaging with the Pennsylvania PUC and responding to its requests for more information, which took more time than Tri-Co or Windstream had reasonably anticipated, and constituted circumstances outside their control. Yet both applicants were able to obtain ETC designations while Commission staff were still actively reviewing their long-form applications.

Moreover, based on the totality of the circumstances, we find that waiver of the deadline here would serve the public interest. Tri-Co and Windstream have both shown consistent efforts to obtain their ETC designations as evidenced by the Pennsylvania PUC finding both companies engaged in good faith efforts, despite the Pennsylvania PUC issuing delayed decisions.<sup>32</sup> Furthermore, Tri-Co filed its application with the Pennsylvania PUC one month after the 30-day good faith time-frame and Windstream was engaged in data analysis for purposes of determining where it actually needed to file its ETC designation application.<sup>33</sup> The circumstances surrounding both of their petitions are not similar to those instances where the Bureau has previously found a lack of good faith.<sup>34</sup> Both applicants were actively working toward filing their respective ETC petitions and demonstrated consistent engagement with the Pennsylvania PUC once their applications were filed.<sup>35</sup> We find the public interest is served by moving forward with authorizing support for applicants that acted in good faith through the application process and obtained their ETC designations within a reasonable amount of time after the deadline, rather than delaying the provision of voice and broadband service to these areas by defaulting long-form applicants that are otherwise ready to authorize.

*United Communications.* As indicated previously, we find good cause to waive the ETC deadline for applicants that were designated by the Commission on June 8, 2021.<sup>36</sup> Thus, we dismiss as moot United Communications' request for waiver of the ETC deadline.<sup>37</sup>

Commission staff is reviewing information that is submitted with long-form applications on a rolling basis. Accordingly, a long-form applicant that is not included in this Public Notice may be included in a future public notice once Commission staff finalizes review of the long-form application.

*Defaults.* Several winning bidders have notified us that they do not intend to pursue some or all of their winning bids. In Attachment B, we list the relevant winning bids associated with winning bidders or their assignees that have notified us that they do not intend to pursue all or some of their winning bids in a state.<sup>38</sup> A list of the eligible census blocks covered by these winning bids will be made available on the Auction 904 website under the "Results" tab, <https://www.fcc.gov/auction/904/round-results>.

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<sup>31</sup> See Pennsylvania Public Utility Commission, Order, Docket No. P-2021-3025445 (rel. Nov. 18, 2021).

<sup>32</sup> Tri-Co Pennsylvania PUC Letter at 1; Windstream Pennsylvania PUC Letter at 1.

<sup>33</sup> Tri-Co Petition at 2-3; Windstream Petition at 2.

<sup>34</sup> See, e.g., *RDOF ETC Deadline Waiver Denial Order*, at 3-4, paras. 8-16.

<sup>35</sup> Tri-Co Pennsylvania PUC Letter at 1; Windstream Pennsylvania PUC Letter at 1; Tri-Co Petition at 2-3; Windstream Petition at 2.

<sup>36</sup> See *Rural Digital Opportunity Fund Auction Support for 1,460 Winning Bids Ready to be Authorized*; WC Docket Nos. 19-126, 10-90, AU Docket No. 20-34, Public Notice, DA 21-909, p. 2 n.9 (WCB/OEA July 26, 2021).

<sup>37</sup> United Communications, Petition for Waiver, WC Docket Nos. 09-197, 10-90, 19-126, AU Docket No. 20-34 (filed June 7, 2021).

<sup>38</sup> The following applicants are also included in this attachment of defaults: LTD Broadband (Kansas and Oklahoma), NW Fiber, Direct Communications of Rockland, and Hotwire. On July 26, 2021 and October 21, 2021, the Bureau denied LTD Broadband's and NW Fiber's respective deadline waiver requests, stating that these entities would be found in default at a later date. *Rural Digital Opportunity Fund*, AU Docket No. 20-34; WC Docket No. 19-126, at 1, 7 (WCB 2021). LTD has sought reconsideration of the ETC deadline decision regarding its application in California, but did not seek reconsideration of the decision regarding its application in Kansas and Oklahoma.

(continued....)

Auction 904 support will not be authorized for these winning bids. We consider these winning bidders and assignees to be in default for these bids and subject to forfeiture.<sup>39</sup> We will refer these defaulters to the Enforcement Bureau for further consideration. Because Commission staff are reviewing information that is submitted with long-form applications on a rolling basis, we expect to announce additional defaults in future public notices.

A defaulter will be subject to a base forfeiture per violation of \$3,000.<sup>40</sup> A violation is defined as any form of default with respect to the census block group. In other words, there shall be separate violations for each census block group assigned in a bid.<sup>41</sup> So that this base forfeiture amount is not disproportionate to the amount of a winning bidder's bid, the Commission has limited the total base forfeiture to 15% of the bidder's total assigned support for the bid for the support term.<sup>42</sup> Notwithstanding this limitation, the total base forfeiture will also be subject to adjustment upward or downward based on the criteria set forth in the Commission's forfeiture guidelines.<sup>43</sup> In addition, any applicant that failed to submit the audited financial statements as required by the June 7, 2021 deadline will be subject to a base forfeiture of \$50,000, which will be subject to adjustment upward or downward as appropriate based on criteria set forth in the Commission's forfeiture guidelines.<sup>44</sup>

Pursuant to section 54.804(b)(6)(v) of the Commission's rules, the long-form applicants identified in Attachment A that may be authorized to receive Rural Digital Opportunity Fund auction support must submit irrevocable stand-by letters of credit, issued in substantially the same form as set forth in the model letter of credit provided in Appendix C of the *Rural Digital Opportunity Fund Order*,<sup>45</sup> by a bank that is acceptable to the Commission by **6:00 p.m. ET on Friday, January 7, 2022**.<sup>46</sup> **Prior to submitting their letters of credit, we encourage long-form applicants to view and share with their issuing banks the letter of credit resources available on USAC's website: <https://www.usac.org/high-cost/funds/rural-digital-opportunity-fund/>.**

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Petition for Partial Reconsideration of LTD Broadband LLC, AU Docket No. 20-34, WC Docket No. 19-126, at 1-2 (filed Aug. 25, 2021). NW Fiber did not seek reconsideration of the denial of its waiver in Washington. Thus, these applicants have effectively defaulted in these three states. Direct Communications of Rockland did not submit appropriate ETC documentation on or before the June 7, 2021 long-form ETC deadline and did not file a waiver of the ETC deadline. 47 CFR § 54.804(b)(5); 47 CFR § 1.3. Thus, we find this applicant in default. Last, Hotwire's request to waive the prohibition on major modifications was denied on December 16, 2021. *Order*, WC Docket No. 19-126, AU Docket No. 20-34, DA 21-1581 (WCB, OEA Dec. 16, 2021). Accordingly, Hotwire's application was denied. *Id.*; see 47 CFR § 54.804(b)(6)(iv) ("Applications to which major modifications are made after the deadline for submitting applications shall be denied.").

<sup>39</sup> *Rural Digital Opportunity Fund et al.*, WC Docket No. 19-126 et al., Report and Order, 35 FCC Rcd 686, 735-36, paras. 114-17 (2020) (*Rural Digital Opportunity Fund Order*).

<sup>40</sup> *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 322.

<sup>41</sup> *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735, para. 115; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 322.

<sup>42</sup> *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 322.

<sup>43</sup> See 47 U.S.C. § 503(b)(2)(B); 47 CFR § 1.80(b)(10), note to paragraph (b)(10); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 115; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 322.

<sup>44</sup> *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6177, para. 318; *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 722, para. 80; 47 U.S.C. § 503(b)(2)(B); 47 CFR § 1.80(b)(10), note to paragraph (b)(10).

<sup>45</sup> *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 773-77, Appx. C.

<sup>46</sup> The Commission's rules list specific requirements for a bank to be acceptable to the Commission to issue the letter of credit. Those requirements vary for United States banks and non-U.S. banks. See 47 CFR § 54.804(c)(2); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 732, para. 107.

A separate letter of credit must be submitted for each state where the long-form applicant has winning bids that are ready to be authorized, in an amount equal to at least the first year of support in the state.<sup>47</sup> The value of the letter of credit must increase each year until it has been verified that the support recipient has met certain milestones, as described in more detail in section 54.804(c)(1) of the Commission's rules.<sup>48</sup>

In addition, a long-form applicant is required to provide with the letter of credit an opinion letter from outside legal counsel clearly stating, subject only to customary assumptions, limitations, and qualifications, that, in a proceeding under the Bankruptcy Code, the bankruptcy court would not treat the letter of credit or proceeds of the letter of credit as property of the long-form applicant's bankruptcy estate, or the bankruptcy estate of any other bidder-related entity requesting issuance of the letter of credit, under section 541 of the Bankruptcy Code.<sup>49</sup>

By future public notice, we will authorize support for specific winning bids for which all requirements, including submission of the letter of credit and opinion letter, have been met.

Details concerning the next steps are set forth below.

#### **Instructions for Submission of Letter of Credit and Opinion Letter**

Long-form applicants identified in Attachment A of this Public Notice must submit letters of credit and Bankruptcy Code opinion letters for each state where they have winning bids identified in Attachment A. The minimum amount of the first letter of credit for each state is determined by adding up the first year of support listed in Attachment A for each winning bid in the state. Each letter of credit and opinion letter submitted to the Universal Service Administrative Company (USAC) must reference the relevant study area code as listed in Attachment A.

A long-form applicant should:

- Submit the hard copy of the letter of credit and opinion letter to USAC by **6:00 p.m. ET on Friday, January 7, 2022**, at the following address: Universal Service Administrative Company (USAC), High Cost Program, Rural Digital Opportunity Fund LOC, Attn: Stephen Snowman, 700 12th Street, NW, Suite 900, Washington, DC 20005;
- **Submit an electronic copy of its original letter of credit and opinion letter to [hcinfo@usac.org](mailto:hcinfo@usac.org) and [OGC-LOC@usac.org](mailto:OGC-LOC@usac.org) by the deadline to ensure that they are timely filed.** Note: 1) the electronic copies should be scanned versions of the hard copies mailed to USAC, which should be signed and include Annex A, B, & C, as shown in the model letter of credit,<sup>50</sup> 2) electronic copies are used for the purpose of determining the timeliness of submissions, 3) thus, USAC will only review the mailed, hard copies of the letters of credit and opinion letters, not the electronic copies;
- Expect to receive feedback from USAC on letters of credit within approximately 10 days of USAC's receipt of the hard copies;
- Avoid sending additional documents until the applicant has received feedback from USAC. If an applicant notices an error in its letter of credit or bankruptcy opinion letter prior to receiving feedback from USAC, do not send USAC a revised copy of the relevant document. Instead, applicants should wait to receive feedback from USAC and then

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<sup>47</sup> *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 732-33, paras. 107-08.

<sup>48</sup> 47 CFR § 54.804(c)(1)(i)-(vii); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 729-31, paras. 98-104.

<sup>49</sup> 11 U.S.C. § 541; 47 CFR § 54.804(c)(3); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735, para. 113.

<sup>50</sup> *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 773-77, Appx. C.

make their corrections to the version of the document they send back to USAC that also incorporates any USAC feedback.

A copy of the letter of credit and opinion letter must also be submitted in the FCC Auction System by the applicable deadline—**prior to 6:00 p.m. ET on Friday, January 7, 2022**. An applicant must provide this required information in two attachments. The letter of credit attachment should be uploaded using the “Letter of Credit” attachment type, and the opinion letter attachment should be uploaded using the “Letter of Credit Opinion Letter” attachment type. Each attachment must be uploaded within the applicant’s long-form application to each relevant winning bid identified in Attachment A of this Public Notice. Such attachments will be treated as confidential trade secrets and/or commercial information and withheld from routine public inspection.<sup>51</sup> As such, a long-form applicant need not submit a separate section 0.459 confidentiality request for this information with its FCC Form 683.<sup>52</sup>

Any long-form applicant identified in Attachment A that fails to file the required documents<sup>53</sup> for any of the identified winning bids by the applicable deadline – **prior to 6:00 p.m. ET on Friday, January 7, 2022** – will be in default on such bid(s) and subject to forfeiture.<sup>54</sup>

#### **Further Information Contact:**

##### **Technical Support**

Electronic Filing  
Auction Application System

##### **FCC Auctions Technical Support Hotline**

(877) 480-3201, option nine; or (202) 414-1250  
(202) 414-1255 (TTY)  
Hours of service: 8:00 a.m. – 6:00 p.m. ET,  
Monday through Friday

##### **Press Information**

##### **Office of Media Relations**

Anne Veigle, (202) 418-0506

##### **General Universal Service Information**

##### **Wireline Competition Bureau, Telecommunications Access Policy Division**

Lauren Garry  
Heidi Lankau  
Stephen Wang  
(202) 418-7400  
Auction904@fcc.gov

##### **Universal Service Administrative Company**

Stephen Snowman  
(202) 414-2725

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<sup>51</sup> *Auction 904 Closing Public Notice*, 35 FCC Rcd at 13899, para. 28. If a request for public inspection under section 0.461 is made for the long-form applicant’s letter of credit or opinion letter, the long-form applicant will have an opportunity to object to disclosure and justify the continued confidential treatment of the information. 47 CFR §§ 0.459, 0.461.

<sup>52</sup> 47 CFR § 0.459.

<sup>53</sup> 47 CFR § 54.804(b)(6)(v).

<sup>54</sup> *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, paras. 114-17; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, paras. 321-22 (2020).



**Auction 904 Information**

General Auction Information, Process, and Procedures

**Office of Economics and Analytics,  
Auctions Division**  
(717) 338-2868

Post-Auction Rules, Policies, and Regulations

**Rural Broadband Auctions Task Force**  
Michael Janson, (202) 418-0627  
Kirk Burgee, (202) 418-1599  
Audra Hale-Maddox, (202) 418-0794  
Jonathan McCormack, (202) 418-1065

**Office of Economics and Analytics,  
Auctions Division**  
(202) 418-0660

**Small Businesses**

Additional information for small and disadvantaged businesses

**Office of Communications Business  
Opportunities**  
(202) 418-0990  
<http://www.fcc.gov/ocbo/>

**Accessible Formats**

Braille, large print, electronic files, or audio format for people with disabilities

**Consumer and Governmental Affairs Bureau**  
(202) 418-0530  
[fcc504@fcc.gov](mailto:fcc504@fcc.gov)

**FCC Internet Sites**

<http://www.fcc.gov>  
<https://www.fcc.gov/auction/904>

This Public Notice contains the following Attachment:

Attachment A: Ready to Authorize Long-Form Applicants and Winning Bids

Attachment B: Bids in Default

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